

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

CRAIG A. THOMPSON,

Petitioner,

: Case No. 3:18-cv-117

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

CHAE HARRIS, Warden,
Warren Correctional Institution

:

Respondent.

ORDER VACATING JUDGMENT AND REINSTATING CASE

This habeas corpus case is before the Court on Petitioner's Motion to Strike and Reinstate Habeas Petition (ECF No. 58).

On February 5, 2020, the Clerk docketed a Motion to Dismiss Habeas Petition¹ which was purportedly signed by Petitioner and served on Respondent on January 27, 2020 (ECF No. 55). Because the dismissal was supposedly voluntary, it was within the decisional authority of the Magistrate Judge under Fed.R.Civ.P. 72(a) and was granted (ECF Nos. 56, 57).

Petitioner now represents to the Court that he did not sign or cause to be filed the Motion for dismissal. Instead he claims it was fraudulently signed and served by another inmate whom he names and says should be prosecuted. Because this Court has only Petitioner's identification of the other inmate and no resources with which to investigate that claim, the Court suggests Petitioner should file a complaint about the fraud with the Ohio Department of Rehabilitation and

¹ The document bears the case number 3:18-cv-1170 which is not a number ever assigned to a case in this Court. The Clerk docketed it in this case.

Corrections.

To the extent Petitioner disclaims any intent to dismiss the Petition, the Court can easily correct the harm. Accordingly, pursuant to Fed.R.Civ.P. 60, both the Magistrate Judge's Decision and Order Granting Motion to Dismiss (ECF No. 56) and the Clerk's Judgment carrying out that Order (ECF No. 57) are VACATED. and this case is ordered reinstated on the active docket of this Court.

On January 2, 2020, prior to receipt of the spurious Motion to Dismiss, the Magistrate Judge had entered an Analysis of the Current Status of this Case which found the case was not ripe for decision because of the reported pendency of a motion for reconsideration in the Second District Court of Appeals and possible subsequent appeal to the Supreme Court of Ohio (ECF No. 54). The Magistrate Judge has confirmed that a motion for reconsideration is in fact pending before the Second District Court of Appeals as of the date of this Order.² Accordingly, the status of the case remains as noted in the Analysis: stayed pending the finality of Petitioner's currently pending appeal. The Court's prior Order for Status Reports remains in effect.

February 25, 2020.

s/ *Michael R. Merz*
United States Magistrate Judge

² www.clerk.co.montgomery.oh.us, visted February 25, 2020.